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SPECIALIZING IN PATENTS, TRADEMARKS &amp; COPYRIGHTS

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Pages: 12 w. cover

To: Examiner

From: Charles W. Bethards

Company: USPTO, Art Unit 2681

Fax No.: 703-872-9306

Subject: Response to Office Action: App. Serial No. 10/606,441  
(Atty. Dkt. CE10654R/10-163)

## Comments:

Applicant(s): Declerk, et al et al	Atty. Dkt.: CE10654R/10-163
Serial No.: 10/606,441	Group Art Unit: 2681
Filed: June 26, 2003	Examiner:
Title: METHOD AND APPARATUS FOR MITIGATING POWER-CONTROL ERROR DURING A SOFT HANDOFF IN A WIRELESS COMMUNICATION SYSTEM	
<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b>	
I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 703-872-9306 on February 7, 2005 to the attention of AU 2681.	
Typed Name: Nancy Bethards	
Signature: <i>Nancy Bethards</i>	

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FEB 07 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/606,441

Applicants: Declerck, et al.

Filed: June 26, 2003

TC/A.U.: 2681

Examiner:

Docket No.: CE10654R/10-163

Customer No.: 23400

For: METHOD AND APPARATUS FOR MITIGATING POWER-CONTROL  
ERRORS DURING A SOFT HANDOFF IN A WIRELESS COMMUNICATION  
SYSTEM

Date: February 7, 2005

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 703-872-9306 on February 7, 2005 to the attention of Art Unit 2681

Typed Name: Nancy Bethards

Signature: **INFORMATION DISCLOSURE STATEMENT**

Commissioner For Patents  
P O Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with 37 C.F.R. §1.56 and in compliance with 37 C.F.R. §§1.97 and 1.98, the references listed on attached Form PTO/SB/08 and/or subsequently identified herein, are being submitted herewith for consideration by the United States Patent and Trademark Office.

**I. COPIES**

- a. ☒ A legible copy of (i) each U.S. and foreign patents; (ii) each publication or that portion which caused it to be listed; and (iii) all other information or that portion which caused it to be listed, is included herewith.
- b. ☐ Any patents, publications or other information which are listed on PTO/SB/08 which are not enclosed herewith were previously cited by or submitted to the

PTO in one of the following applications which has been relied upon for an earlier filing date under 35 U.S.C. §120:

U.S. Serial Number

U.S. Filing Date

II. CONCISE EXPLANATION OF THE RELEVANCE (check at least one box)

- a. ☒ Except as may be indicated below in (b) of this section, all of the patents, publications or other information are in the English language (concise explanation not required).
- b. ☐ A concise explanation of the relevance of all patents, publications or other information listed that is not in the English language is as follows:
- c. ☐ The following additional information is provided for the Examiner's consideration:

III. ☐ CROSS REFERENCE TO RELATED APPLICATION(S)

The Examiner is advised that the following co-pending application(s) contain(s) subject matter that may be related to the present application. By bringing this (these) applications to the Examiner's attention, Applicant(s) does(do) not waive the confidentiality provisions of 35 U.S.C. §122.

Serial No.

Filing Date

Art Unit

FEES

IV. ☒ THIS IDS IS BEING FILED UNDER 37 C.F.R. §1.97(b): (check one box)

- a. ☐ within three months of the filing date of a national application (37 C.F.R. §1.97(b)(1)). No fee or statement is required.
- b. ☐ within three months of the date of entry of the national stage as set forth in § 1.491 in an international application (37 C.F.R. §1.97(b)(2)). No fee or statement is required.
- c. ☒ before the mailing date of a first Office Action on the merits (37 C.F.R. §1.97(b)(3)). No fee or statement is required.
- d. ☐ In the event that a first Office Action on the merits has been issued, please consider this IDS under 37 C.F.R. §1.97(c) and see the statement under 37 C.F.R. §1.97(e) provided below, or if no statement has been made, charge deposit account 50-1147 the fee set forth in 37 C.F.R. §1.17(p).

V. ☒ THIS IDS IS BEING FILED UNDER 37 C.F.R. §1.97(c): (check one box)  
before the mailing date of either a Final Office Action under 37 C.F.R. §1.113 (See 37 C.F.R. §1.97(c)), or a Notice of Allowance under 37 C.F.R. §1.311 (See 37 C.F.R. §1.97(c)).

- a. ☐ No statement; therefore, charge deposit account 50-1147 the fee set forth in 37 C.F.R. §1.17(p).  
b. ☒ See the statement below. No fee is required.

VI. ☐ THIS IDS IS BEING FILED UNDER 37 C.F.R. §1.97(d):

on or before payment of the issue fee and is accompanied by the following:

- 1) a statement under 37 C.F.R. §1.97(e) as provided below;
- 2) Applicant(s) hereby a petition for consideration of this information disclosure statement; and
- 3) charge deposit account 50-1147 the petition fee set forth in §1.17(i).

VII. Statement under 37 C.F.R. §1.97(e) (check only one box, if applicable)  
The undersigned hereby states that

- a. ☐ each item of information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of IDS; or  
b. ☐ no item of information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application, and to knowledge of the person signing the statement after making reasonable inquiry, no item of information contained in the IDS was known to any individual designated in 37 C.F.R. 1.56(c) more than three months prior to the filing of this statement, or  
c. ☐ some of the items of information contained in the IDS were cited in a communication from a foreign Patent Office. As to this information, the undersigned states that each item of information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of this IDS. As to the remaining information, the undersigned hereby states that no item of this remaining information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application or, to the knowledge of the person signing the statement after making reasonable inquiry, no item of information contained in the IDS was

known to any individual designated in 37 C.F.R. 1.56(c) more than three months prior to the filing of this statement.

**VIII. PAYMENT OF FEES**

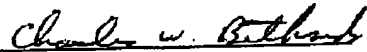
- ☐ A check in the amount of \_\_\_\_\_ is enclosed for the above-identified fee(s).
- ☐ Please charge Deposit Account No. 50-1147 in the amount of \$ \_\_\_\_\_ for the above-indicated fee(s).
- ☒ If Applicant has overlooked any additional fees, or if any overpayment has been made, the Commissioner is hereby authorized to credit or debit Deposit Account 50-1147.

Each item of information contained in the IDS was cited in a communication from a foreign Patent Office (PCT International Search Report enclosed) in a counterpart foreign application.

The above references are being cited only in the interests of candor and without any admission that they constitute statutory prior art or contain matter which anticipates the invention or which would render the same obvious, either singly or in a combination, to a person or ordinary skill in the art.

If the Examiner has any questions concerning this IDS, he/she is requested to contact the undersigned. If it is determined that this IDS has been filed under the wrong rule, the PTO is requested to consider this IDS under the proper rule (with a petition if necessary) and charge the appropriate fee to Deposit Account No. 50-1147.

Respectfully submitted,

  
Charles W. Bethards  
Reg. No. 36,453

Posz & Bethards, PLC  
11250 Roger Bacon Drive  
Suite 10  
Reston, VA 20190  
Phone (703) 707-9110  
Fax (703) 707-9112  
Customer No. 23400



## PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:  
STEVEN A. MAY  
1303 EAST ALGONQUIN ROAD  
SCHAUMBURG, IL 60196

IF NO RESPONSE IS NEEDED,  
PLEASE INITIAL DATE 1/7/05  
RETURN TO CAROL

PCT

NOTIFICATION OF TRANSMITTAL OF  
THE INTERNATIONAL SEARCH REPORT AND  
THE WRITTEN OPINION OF THE INTERNATIONAL  
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Applicant's or agent's file reference CE10654R	Date of mailing (day/month/year) 29 DEC 2004
International application No. PCT/US04/20439	FOR FURTHER ACTION See paragraphs 1 and 4 below
Applicant MOTOROLA, INC., A CORPORATION OF THE STATE OF DELAWARE	International filing date (day/month/year) 24 June 2004 (24.06.2004)

- ☐ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.  
Filing of amendments and statement under Article 19:  
The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):  
When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.  
Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes  
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35  
For more detailed instructions, see the notes on the accompanying sheet.
- ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
- ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:  
☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.  
☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.
- Reminders**  
Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.  
The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.  
Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.  
In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.  
See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the PCT Applicant's Guide, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/US  
Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
Facsimile No. (703) 305-3230

Authorized officer  
Edan Orgad  
Telephone No. 703-305-4223

Form PCT/ISA/220 (January 2004)

(See notes on accompanying sheet)

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference CE10654R	<b>FOR FURTHER ACTION</b>	see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.
International application No. PCT/US04/20439	International filing date (day/month/year) 24 June 2004 (24.06.2004)	(Earliest) Priority Date (day/month/year) 26 June 2003 (26.06.2003)
Applicant MOTOROLA, INC., A CORPORATION OF THE STATE OF DELAWARE		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 2 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

## 1. Basis of the Report

a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international search was carried out on the basis of the sequence listing:

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

2. ☐ Certain claims were found unsearchable (See Box I).

3. ☐ Uniqueness of invention is lacking (See Box II).

4. With regard to the title,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the abstract,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is Figure No. 1

☒ as suggested by the applicant.

☐ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

☐ None of the figures

Form PCT/ISA/210 (first sheet) (July 1998)



## INTERNATIONAL SEARCH REPORT

International application No.

PCT/US04/20439

## A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : H04B 7/00; H04Q 7/00

US CL : 455/436, 442, 522

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 455/436, 442, 522

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US006185199 B1 (ZEHAFT) 06 February 2001, see detailed written opinion 237 report.	1, 5 and 9
A		2-4, 6-8 and 10
X	US006097972 A (SAINTS et al) 01 August 2000, see entire document. ✓	1, 5 and 9
A		2-4, 6-8 and 10
Y	US 5,640,414 A (BLACKENEY, II et al) 17 June 1997, see col. 3, line 21- col. 4, line 24 ✓	1, 5 and 9
Y	US 20020126739 A1 (TIEDEMANN, JR. et al) 12 September 2002, see paragraphs 20-26 ✓	1, 5 and 9
Y	US 20020093918 A1 (KIM et al) 18 July 2002, see entire document. ✓	1, 5 and 9
X,P	US006757270B1 (KUMAR et al) 29 June 2004, see entire document.	1, 5 and 9

☐ Further documents are listed in the continuation of Box C.

See patent family annex.

\* Special categories of cited documents:

\*A\* document defining the general state of the art which is not considered to be of particular relevance

\*B\* earlier application or patent published on or after the international filing date

\*L\* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

\*O\* document referring to an oral disclosure, use, exhibition or other means

\*P\* document published prior to the international filing date but later than the priority date claimed



\*T\* later documents published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention



\*X\* documents of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone



\*Y\* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art



\*A\* document member of the same patent family

Date of the actual completion of the international search

12 December 2004 (12.12.2004)

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US

Commissioner for Patents

P.O. Box 1430

Alexandria, Virginia 22313-1430

Facsimile No. (703) 305-3230

Form PCT/ISA/210 (second sheet) (July 1998)

Date of mailing of the international search report

29 DEC 2004

Authorized official

Edan Orgad

Telephone No. 703-305-4223

## PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITYTo:  
STEVEN A. MAY  
1303 EAST ALGONQUIN ROAD  
SCHAUMBURG, IL 60196**PCT**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference <b>CE10654R</b>		Date of mailing (day/month/year) <b>29 DEC 2004</b>
		<b>FOR FURTHER ACTION</b> See paragraph 2 below
International application No. <b>PCT/US04/20439</b>	International filing date (day/month/year) <b>24 June 2004 (24.06.2004)</b>	Priority date (day/month/year) <b>26 June 2003 (26.06.2003)</b>
International Patent Classification (IPC) or both national classification and IPC <b>IPC(7): H04B 7/00; H04Q 7/00 and US Cl.: 455/436, 442, 522</b>		
Applicant <b>MOTOROLA, INC., A CORPORATION OF THE STATE OF DELAWARE</b>		

## 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

## 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

## 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer: Edan Orgad Telephone No. 703-305-4223
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Form PCT/ISA/237 (cover sheet) (January 2004)

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/20439

## Box No. I Basis of this opinion

PAGE

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
- a. type of material
- ☐ a sequence listing
- ☐ table(s) related to the sequence listing
- b. format of material
- ☐ in written format
- ☐ in computer readable form
- c. time of filing/furnishing
- ☐ contained in international application as filed.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Form PCT/ISA/237(Box No. I) (January 2004)

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US04/20439

**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims 2-4, 6-8 and 10	YES
	Claims 1, 5 and 9	NO
Inventive step (IS)	Claims 2-4, 6-8 and 10	YES
	Claims 1, 5 and 9	NO
Industrial applicability (IA)	Claims 1-10	YES
	Claims NONE	NO

**2. Citations and explanations:**

Claims 1, 5 and 9 novelty under PCT Article 33(2) as being anticipated by Zehavi (US 6,185,199).

Regarding claim 1, Zehavi teaches a method in a wireless communication system for mitigating power-control errors during a soft handoff of a mobile unit, the method comprising: programming a plurality of base stations with a uniform power-control bit pattern to be sent to the mobile unit during a plurality of power-control bit times, before the mobile unit is acquired on a reverse link (col. 3, lines 1-14); and timing transmissions of the uniform power-control bit pattern such that the plurality of base stations, when transmitting, send identical power-control bits during each of the plurality of power-control bit times (col. 12, lines 49-63).

Regarding claim 5 and 9, Zehavi teaches an apparatus for use in a wireless communication system for mitigating power-control errors during a soft handoff of a mobile unit, the apparatus for use with a base station of a plurality of base stations attempting to communicate with the mobile unit, the apparatus comprising: a processor for controlling the base station (col. 3, lines 1-14), a memory element coupled to the processor for programming the processor, the memory element comprising a uniform power-control bit pattern to be sent by different ones of the plurality of base stations to the mobile unit during a plurality of power-control bit times, before the mobile unit is acquired on a reverse link (col. 12, lines 49-63); and a synchronizer coupled to the processor for cooperating with the processor to time transmissions of the uniform power-control bit pattern such that the plurality of base stations, when transmitting, send identical power-control bits during each of the plurality of power-control bit times (col. 6, line 66, col. 7, line 10).

Claims 2 and 6 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest wherein programming the plurality of base stations with the uniform power-control bit pattern comprises programming a pattern that requires more than a single transmission frame of a forward link from a base station to the mobile unit before the pattern repeats, and wherein timing the transmissions comprises synchronizing the transmissions from each of the plurality of base stations such that the transmissions start at substantially identical times.

Claims 3, 7 and 10 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest wherein programming the plurality of base stations with the uniform power-control bit pattern comprises programming a pattern that repeats after a single one of a plurality of transmission frames of a forward link from the base station to the mobile unit, and wherein timing the transmissions comprises starting the transmissions at substantially identical points within different ones of the plurality of transmission frames.

Claims 4 and 8 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest wherein the uniform power-control bit pattern is a pattern that repeats after a single one of a plurality of transmission frames of a forward link from the base station to the mobile unit, and wherein the synchronizer is arranged and programmed such that the transmissions of the uniform power-control bit pattern from the plurality of base stations start at substantially identical points within different ones of the plurality of transmission frames.

Form PCT/ISA/237 (Box No. V) (January 2004)